रजिस्ट्री सं० डी० 221 REGISTERED NO. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 77] नई दिल्ली, बृहस्पतिवार, दिसम्बर 20, 1973/अग्रहायण 29, 1895
No. 77] NEW DELHI, THURSDAY, DECEMBER 20, 1973/AGRAHAYANA 29, 1895

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 20th December, 1973.

BILL No. XLIII OF 1973

A Bill futher to amend the Reserve Bank of India Act, 1934.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Reserve Bank of India (Second Amendment) Act, 1973. **Short title.**

2 of 1934.

2. In section 2 of the Reserve Bank of India Act, 1934 (hereafter in this Act referred to as the principal Act),— **Amendment of section 2.**

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "agricultural operations" includes animal husbandry, dairy and poultry farming, pisciculture and other allied activities, whether or not undertaken jointly with agricultural operations;';

(*ii*) after clause (*aii*), the following clause shall be inserted, namely:—

(*aiii*) "Bank for International Settlements" means the body corporate established with the said name under the law of Switzerland in pursuance of an agreement dated the 20th January, 1930, signed at the Hague;';

(*iii*) after clause (c), the following clauses shall be inserted, namely:—

'(*ca*) "International Development Association" means the "Association" referred to in the International Development Association (Status, Immunities and Privileges) Act, 1960; 32 of 1960.

(*cb*) "International Finance Corporation" means the "Corporation" referred to in the International Finance Corporation (Status, Immunities and Privileges) Act, 1958; 42 of 1958.

(*cc*) "International Monetary Fund" and "International Bank for Reconstruction and Development" mean respectively the "International Fund" and the "International Bank", referred to in the International Monetary Fund and Bank Act, 1945;';

(*iv*) after clause (*ci*), the following clause shall be inserted, namely:—

(*cia*) "pisciculture" includes the development of fisheries, both inland and marine, catching of fish and all other activities connected therewith or incidental thereto;'.

Substitution of Banking Regulation Act, 1949, in place of Banking Companies Act, 1949.

3. In the principal Act, for the words and figures "Banking Companies Act, 1949", wherever they occur, the words and figures "Banking Regulation Act, 1949" shall be substituted.

Amendment of section 8

4. In section 8 of the principal Act, in sub-section (4), after the words "for a period of four years", the words "and thereafter until his successor shall have been nominated" shall be inserted.

Amendment of section 9.

5. In section 9 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Every member of a Local Board shall hold office for a term of four years and thereafter until his successor shall have been appointed and shall be eligible for re-appointment.".

Amendment of section 17.

6. In section 17 of the principal Act,—

(*i*) in clause (2),—

(*A*) in sub-clause (*a*), after the words "or a State co-operative bank", the words "or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf" shall be inserted;

(*B*) in sub-clause (*b*),—

(*a*) after the words "or a State co-operative bank", the words "or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf" shall be inserted;

(*b*) for the words "financing seasonal agricultural operations", the words "financing agricultural operations" shall be substituted;

(*C*) in sub-clause (*bb*), after the words "or a State Financial Corporation", the words "or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf" shall be inserted;

(*ii*) after clause (*3A*), the following clause shall be inserted, namely:—

"(*3B*) the making to any scheduled bank or State co-operative bank of loans and advances repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days against promissory notes of such bank:

Provided that the borrowing bank furnishes a declaration in writing to the effect that it has made loans and advances for *bona fide* commercial or trade transactions or for financing agricultural operations or the marketing of crops or for other agricultural purposes as set out in the declaration and the said declaration includes such other particulars as may be required by the Bank;";

(*iii*) in sub-clause (*d*) of clause (*4*), for the words "financing seasonal agricultural operations", the words "financing agricultural operations" shall be substituted;

(*iv*) for the proviso to clause (*4A*), the following proviso shall be substituted, namely:—

"Provided that the previous approval of the State Government shall be obtained for the borrowing by the State Financial Corporation and the amount of loans and advances granted to that Corporation under this clause shall not, at any time, exceed in the aggregate ninety per cent. of the paid-up share capital thereof.";

(*v*) in clause (*11*),—

(*a*) after the words and figures "the Industrial Finance Corporation Act, 1948", the words "or any other body corporate which is established or constituted by or under any other law" shall be inserted, and, for the words "any such person", the words "any such person or authority" shall be substituted;

(*b*) in sub-clause (*f*), the words "in respect of the aforesaid Corporation," and the word "its" shall be omitted.

7. In section 18 of the principal Act,— Amendment of section 18.

(*a*) in sub-section (*1*),—

(*i*) in the opening paragraph, the brackets and figure "(*1*)" shall be omitted;

(*ii*) for the words "under this sub-section", the words "under this section" shall be substituted;

(*iii*) the words, brackets, letters and figures "sub-clauses (*a*) and (*b*) of clause (*2*) or sub-clause (*a*) or (*b*) of clause (*3*) or clause (*4*) of" shall be omitted;

(*b*) for clause (*1*), the following clause shall be substituted, namely:—

"(*1*) purchase, sell or discount any bill of exchange or promissory note though such bill or promissory note is not eligible for purchase or discount by the Bank under that section; or";

(*c*) for clause (*3*), the following clause shall be substituted, namely:—

"(3) make loans or advances to—

(*a*) a State co-operative bank, or

(*b*) on the recommendation of a State co-operative bank, to a co-operative society registered within the area in which the State co-operative bank operates, or

(*c*) any other person,

repayable on demand or on the expiry of fixed periods, not exceeding ninety days, on such terms and conditions as the Bank may consider to be sufficient.";

(*d*) sub-section (*2*) shall be omitted.

Insertion of new section 18A.

8. After section 18 of the principal Act, the following section shall be inserted, namely:—

Validity of loan or advance not to be questioned.

"18A. Notwithstanding anything to the contrary contained in any other law for the time being in force,—

(*a*) the validity of any loan or advance granted by the Bank in pursuance of the provisions of this Act shall not be called in question merely on the ground of non-compliance with the requirements of such other law as aforesaid or of any resolution, contract, memorandum, articles of association or other instrument:

Provided that nothing in this clause shall render valid any loan or advance obtained by any company or co-operative society where such company or co-operative society is not empowered by its memorandum to obtain loans or advances;

(*b*) where a loan or advance has been granted under clause (*3A*) or under clause (*3B*) of section 17 or a loan or advance granted under clause (*3*) of section 18 by the Bank to any person has been applied by such person, wholly or in part, in making a loan or advance to any borrower, any sum received—

(*i*) by the borrowing bank on account of bills of exchange in respect of which the declaration under clause (*i*)

of the proviso to clause (*3A*) of section 17 has been furnished or in repayment or realisation of the outstanding loans and advances referred to in clause (*ii*) of the said proviso or in the proviso to clause (*3B*) of the said section, or

(*ii*) by the borrowing bank or any other person in repayment or realisation of loans and advances granted to a borrower out of funds obtained by it or by him from the Bank under section 18,

shall be utilised only for the repayment by the borrowing bank or other person, as the case may be, of the amounts due to be repaid by it or by him to the Bank, and shall be held by it or by him in trust for the Bank, until such time as the amounts are so repaid.".

Omission of section 32.

9. Section 32 of the principal Act shall be omitted.

Amendment of section 33.

10. In section 33 of the principal Act,—

(*i*) in sub-section (*3*),—

(*a*) for the word, brackets and letter "sub-clause (*b*)", the words, brackets and letters "sub-clause (*b*) or sub-clause (*bb*)" shall be substituted;

(*b*) the words, brackets and figure "of sub-section (*1*)" shall be omitted;

(*ii*) for sub-section (*6*), the following sub-section shall be substituted, namely:—

"(*6*) for the purposes of this section, the foreign securities which may be held as part of the assets shall be—

(*i*) securities of the following kinds payable in the currency of any foreign country which is a member of the International Monetary Fund, namely:—

(*a*) balances with the bank which is the principal currency authority of that foreign country and any other balances or securities in foreign currency maintained with or issued by the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association or the International Finance Corporation or the Bank for International Settlements or any commercial bank notified by the Central Government in this behalf, provided that they are repayable within a period of five years;

(*b*) bills of exchange bearing two or more good signatures and drawn on and payable at any place in that foreign country and having a maturity not exceeding ninety days; and

(c) Government securities of that foreign country maturing within five years;

(*ii*) any drawing rights representing a liability of the International Monetary Fund.".

Amendment of section 42.

11. In section 42 of the principal Act,—

(*A*) in the *Explanation* below sub-section (*1*), in clause (*c*),—

(*a*) in sub-clause (*ii*), the words "or from the State Bank or from any other bank notified by the Central Government in this behalf, and" shall be omitted;

(*b*) in sub-clause (*iii*), the words "required to be" shall be omitted;

(*c*) after sub-clause (*iii*), the following sub-clause shall be inserted, namely:—

"(*iv*) in the case of a State co-operative bank, which has granted an advance against any balance maintained with it, such balance to the extent of the amount outstanding in respect of such advance;";

(*d*) after clause (c), the following clauses shall be inserted, namely:—

'(*d*) the aggregate of the "liabilities" of a scheduled bank which is not a State co-operative bank, to,—

(*i*) the State Bank;

(*ii*) a subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.

(*iii*) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970.

(*iv*) a banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(*v*) a co-operative bank; or

(*vi*) any other financial institution notified by the Central Government in this behalf,

shall be reduced by the aggregate of the liabilities of all such banks and institutions to the scheduled bank;

(*e*) the aggregate of the "liabilities" of a scheduled bank which is a State co-operative bank, to,—

(*i*) the State Bank;

(*ii*) a subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.

(*iii*) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970.

(*iv*) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949; or 10 of 1949.

(*v*) any other financial institution notified by the Central Government in this behalf,

shall be reduced by the aggregate of the liabilities of all such banks and institutions to the State co-operative bank.';

(*B*) in sub-section (*2*),—

(*a*) in clause (*a*), for the words "other than the State Bank and any other bank notified by the Central Government in this behalf", the words "classifying them into demand and time liabilities" shall be substituted;

(*b*) clause (*aa*) shall be omitted;

(*c*) in the first proviso, for the words "Provided that", the following shall be substituted, namely:—

"Provided that the Bank may, by notification in the Gazette of India, delete or modify or add to any of the particulars specified in the foregoing clauses:

Provided further that";

(*d*) in the second proviso, for the words "Provided further that where the Bank is satisfied", the words "Provided also that where the Bank is satisfied" shall be substituted.

Substitution of section 43.

12. For section 43 of the principal Act, the following section shall be substituted, namely:—

Publication of consolidated statement by the Bank.

"43. The Bank shall cause to be published each week a consolidated statement showing the aggregate liabilities and assets of all the scheduled banks together, based on the returns and information received under this Act or any other law for the time being in force.".

Amendment of section 45A.

13. In section 45A of the principal Act,—

(*A*) in clause (*a*), for the words "or any other banking or financial institution notified by the Central Government in this behalf", the words, brackets and figures "any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, any corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, and any other financial institution notified by the Central Government in this behalf" shall be substituted;

38 of 1959.

5 of 1970.

(*B*) in clause (*c*),—

(*i*) in sub-clause (*ii*), after the words "taken from any borrower", the words "or class of borrowers" shall be inserted, and, for the words "granted to him; and", the words "granted to him or to such class;" shall be substituted;

(*ii*) in sub-clause (*iii*), after the words "any of its customers", the words "or any class of its customers;" shall be inserted;

(*iii*) after sub-clause (*iii*), the following sub-clauses shall be inserted, namely:—

"(*iv*) the means, antecedents, history of financial transactions and the creditworthiness of any borrower or class of borrowers;

(*v*) any other information which the Bank may consider to be relevant for the more orderly regulation of credit or credit policy."

Amendment of section 45E.

14. In section 45E of the principal Act, in sub-section (2), after clause (b), the following clause shall be inserted, namely:—

"(c) the disclosure or publication by the banking company or by the Bank of any credit information to any other banking company or in accordance with the practice and usage customary among bankers or as permitted or required under any other law:

Provided that any credit information received by a banking company under this clause shall not be published except in accordance with the practice and usage customary among bankers or as permitted or required under any other law.".

Omission of section 45G.

15. Section 45G of the principal Act shall be omitted.

Amendment of section 45H.

16. In section 45H of the principal Act, in the proviso, for the words "Madras Industrial Investment Corporation Limited", the words "Tamil Nadu Industrial Investment Corporation Limited" shall be substituted.

Amendment of section 45I.

17. In section 45I of the principal Act,—

(*i*) after clause (*b*), the following clause shall be inserted, namely:—

'(*bb*) "deposit" shall include, and shall be deemed always to have included, any money received by a non-banking institution by way of deposit, or loan or in any other form, but shall not include amounts raised, by way of share capital, or contributed as capital by partners of a firm;';

(*ii*) for clause (*c*) including the *Explanation*, the following shall be substituted, namely:—

'(*c*) "financial institution" means any non-banking institution which carries on as its business or part of its business any of the following activities, namely:—

(*i*) the financing, whether by way of making loans or advances or otherwise, of any activity other than its own;

(*ii*) the acquisition of shares, stock, bonds, debentures or securities issued by a Government or local authority or other marketable securities of a like nature;

(*iii*) letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (*c*) of section 2 of the Hire-Purchase Act, 1972; 26 of 1972.

(*iv*) the carrying on of any class of insurance business;

(*v*) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto;

(*vi*) collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lumpsum or otherwise, by way of subscriptions or by sale of units, or

other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person,

but does not include any institution, which,—

(*i*) is an industrial concern as defined in clause (c) of section 2 of the Industrial Development Bank of India Act, 1964, or

18 of 1964.

(*ii*) carries on as its principal business,—

(*a*) agricultural operations; or

(*b*) the purchase or sale of any goods (other than securities) or the providing of any services; or

(c) the purchase, construction or sale of immovable property, so however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons;'.

Amendment of section 45K.

18. In section 45K of the principal Act, sub-section (5) shall be omitted.

Insertion of new section 45MA.

19. After section 45M of the principal Act, the following section shall be inserted, namely:—

Powers and duties of auditors.

"45MA. (*1*) It shall be the duty of an auditor of a non-banking institution to inquire whether or not the non-banking institution has furnished to the Bank such statements, information or particulars relating to or connected with deposits received by it, as are required to be furnished under this Chapter, and the auditor shall, except where he is satisfied on such inquiry that the non-banking institution has furnished such statements, information or particulars, make a report to the Bank giving the aggregate amount of such deposits held by the non-banking institution.

(*2*) Where, in the case of a non-banking institution, being a company, the auditor has made, or intends to make, a report to the Bank under sub-section (*1*), he shall include in his report under sub-section (*2*) of section 227 of the Companies Act, 1956, the contents of the report which he has made, or intends to make, to the Bank.".

1 of 1956.

Amendment of section 45N.

20. In section 45N of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Bank may, at any time, cause an inspection to be made by one or more of its officers or employees or other persons (hereafter in this section referred to as the inspecting authority)—

(*i*) of any non-banking institution, including a financial institution, for the purposes of verifying the correctness or completeness of any statement, information or particulars furnished to the Bank or for the purpose of obtaining any information or particulars which the non-banking institution has failed to furnish on being called upon to do so; or

(*ii*) of any non-banking institution being a financial institution, if the Bank considers it necessary or expedient to inspect that institution.".

Insertion of new section 45NA.

21. After section 45N of the principal Act, the following section shall be inserted, namely:—

Deposits not to be solicited by unauthorised persons.

"45NA. No person shall solicit on behalf of any non-banking institution either by publishing or causing to be published any prospectus or advertisement or in any other manner deposits of money from the public unless—

(*a*) he has been authorised in writing by the said non-banking institution to do so and specifies the name of the institution which has so authorised him, and

(*b*) the prospectus or advertisement complies with any order made by the Bank under section 45J and with any other provision of law for the time being in force, applicable to the publication of such prospectus or advertisement.".

Omission of sections 45O and 45P.

22. Sections 45O and 45P of the principal Act shall be omitted.

Amendment of section 46A.

23. In section 46A of the principal Act, in sub-section (*2*),—

(*i*) in clause (*b*), for the words "agricultural purposes or for such other purposes connected with the agricultural activities as the Central Board may, from time to time, by regulation or otherwise, determine", the words "agricultural and allied purposes including purposes of animal husbandry or pisciculture or such other purposes connected with agricultural operations as the Bank may, from time to time, determine" shall be substituted;

(*ii*) after each of the provisos to clause (*b*) and clause (c), the following further proviso shall be added to each of the said clauses, namely:—

"Provided further that such guarantee may be waived by the Bank if other security to the satisfaction of the Bank is available, or if, for reasons to be recorded by it in writing, the Bank is satisfied that a guarantee or other security is not necessary;".

Amendment of section 58.

24. In section 58 of the principal Act, sub-section (*3*) shall be re-numbered as sub-section (*5*) thereof and before sub-section (*5*), as so re-numbered, the following sub-sections shall be inserted, namely:—

"(*3*) Any regulation made under this section shall have effect from such earlier or later date as may be specified in the regulation.

(*4*) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect

only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

Insertion of new section 58A.

25. After section 58 of the principal Act, the following section shall be inserted, namely:—

Protection of action taken in good faith.

"58A. (*1*) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Bank or any other person in respect of anything which is in good faith done or intended to be done under this Act or in pursuance of any order, regulation or direction made or given thereunder.

(*2*) No suit or other legal proceeding shall lie against the Central Government or the Bank for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or in pursuance of any order, regulation or direction made or given thereunder.".

Insertion of new sections 58B, 58C, 58D, 58E and 58F.

26. After section 58A of the principal Act, the following Chapter and sections shall be inserted, namely:—

CHAPTER V

PENALTIES

Penalties.

58B. (*1*) Whoever in any application, declaration, return, statement, information or particulars made, required or furnished by or under or for the purposes of any provisions of this Act, or any order, regulation or direction made or given thereunder or in any prospectus or advertisement issued for or in connection with the invitation by any person, of deposits of money from the public wilfully makes a statement which is false in any material particular knowing it to be false or wilfully omits to make a material statement shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(*2*) If any person fails to produce any book, account or other document or to furnish any statement. information or particulars which, under this Act or any order, regulation or direction made or given thereunder, it is his duty to produce or furnish or to answer any question put to him in pursuance of the provisions of this Act or of any order, regulation or direction made or given thereunder, he shall be punishable with fine which may extend to two thousand rupees in respect of each offence and if he persists in such failure or refusal, with further fine which may extend to one hundred rupees for every day, after the first during which the offence continues.

(*3*) If any person contravenes the provisions of section 31, he shall be punishable with fine which may extend to the amount of the bill of exchange, hundi, promissory note or engagement for payment of money in respect whereof the offence is committed.

(*4*) If any person discloses any credit information, the disclosure of which is prohibited under section 45E, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(5) If any person—

(*a*) receives any deposit in contravention of any direction given or order made under Chapter IIIB; or

(*b*) issues any prospectus or advertisement otherwise than in accordance with section 45NA or any order made under section 45J, as the case may be,

he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend,—

(*i*) in the case of a contravention falling under clause (*a*), to twice the amount of the deposit received; and

(*ii*) in the case of a contravention falling under clause (*b*), to twice the amount of the deposit called for by the prospectus or advertisement.

(*6*) If any other provision of this Act is contravened or if any default is made in complying with any other requirement of this Act or of any order, regulation or direction made or given or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to two thousand rupees and where a contravention or default is a continuing one, with further fine which may extend to one hundred rupees for every day, after the first, during which the contravention or default continues.

Offences by companies.

58C. (*1*) Where a person committing a contravention or default referred to in section 58B is a company, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention or default was committed without his knowledge or that he had exercised all due diligence to prevent the contravention or default.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the same was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer or employee of the company, such director, manager, secretary, other officer or employee shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation 1.—Any offence punishable under this Act shall be deemed to have been committed at the place where the registered office or the principal place of business, as the case may be, in India, of the company is situated.

Explanation 2.— For the purpose of this section,—

(*a*) "a company" means any body corporate and includes a corporation, a non-banking institution, a firm, a co-operative society or other association of individuals;

(*b*) "director", in relation to a firm, means a partner in the firm.

Application of section 58B barred.

58D. Nothing contained in section 58B shall apply to, or in respect of, any matter dealt with in section 42.

Cognizance of offences.

58E. (*1*) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the Bank, generally or specially authorised in writing in this behalf by the Bank, and no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any such offence.

5 of 1898.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure 1898, a Magistrate may, if he sees reason so to do, dispense with the personal attendance of the officer of the Bank filing the complaint, but the Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

Application offences.

58F. A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in, or towards payment of, the costs of the proceedings.'.

STATEMENT OF OBJECTS AND REASONS

It is proposed to amend the Reserve Bank of India Act, 1934, for various purposes. Some of the more important amendments are intended—

(i) to enlarge the scope of the term "agricultural operations" so as to permit extension of concessional refinance facilities by the Reserve Bank to apex co-operative banks in respect of loans to co-operatives exclusively formed for subsidiary activities undertaken not jointly but independently of farming,

(ii) to extend the scope of refinance facilities from the Reserve Bank to scheduled banks and State co-operative banks,

(iii) to provide for statutory protection to banks to exchange freely credit information mutually among themselves, and

(iv) to plug certain loopholes in the existing provisions of the Act regarding control over non-banking institutions receiving deposits.

2. Opportunity has also been taken to provide in a separate Chapter penalties in respect of certain offences under the Act and to consolidate in that Chapter the existing provisions regarding penalties which are found in different places in the Act.

3. The notes on clauses explain in detail the various provisions contained in the Bill.

NEW DELHI; Y. B. CHAVAN.

The 12th December, 1973.

Notes on clauses

Clause 2 seeks to enlarge the scope of the definition of the term "agricultural operations" occurring in section 2 of the Reserve Bank of India Act, 1934 so as to remove the limiting condition that only activities which are carried on jointly with agriculture can be financed by the Reserve Bank and to define in that section the term "pisciculture" and certain foreign institutions which are referred to in the Act.

Clause 3 seeks to substitute the references to the Banking Companies Act, 1949, wherever they occur in the Act, by references to the Banking Regulation Act, 1949.

Clauses 4 and 5 seek to amend sections 8 and 9 of the Act to provide for the continuance in office of a Director nominated on the Central Board of the Reserve Bank by the Central Government or of a member appointed on a Local Board by the Central Government, as the case may be, till such time as his successor is appointed.

Clause 6 seeks to amend section 17 of the Act with a view to empowering the Reserve Bank to treat the signatures of approved institutions predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes as good signatures for the purpose of loans and advances by the Reserve Bank and the rediscounting of bills by it. The clause further seeks to authorise the Reserve Bank to make loans and advances to institutions which have made advances for certain *bona fide* commercial or trade purposes against a declaration by the borrowing institutions that the loans and advances made by the Reserve Bank are covered in turn by outstanding loans and advances for the said purposes. The ceiling of loans and advances which may be granted by the Reserve Bank to a State Financial Corporation is sought to be increased and the approval of the State Government concerned is proposed to be made a condition precedent for such borrowing by a State Financial Corporation. The Reserve Bank is also being enabled to act as an agent for a number of institutions other than those specifically mentioned in clause (11) of section 17 at present.

Clause 7 seeks to amplify the scope of section 18 of the Act under which loans and advances can be made by the Reserve Bank on special occasions.

Clause 8 seeks to insert new section 18A in the Act to ensure that borrowings on such special occasions from the Reserve Bank will not be prevented by reason of the borrower having to comply with certain formalities which may be difficult. Where a borrower from the Reserve Bank re-lends the money, any funds realised by the borrower will be required to be held in trust for the Reserve Bank.

Clause 9 which seeks to omit section 32 of the Act is consequential to the amendments intended to consolidate and amplify the penal provisions in respect of offences under the Act (*vide* clause 26).

Clause 10 seeks to amend section 33 of the Act to widen the scope of the eligible assets which may be held in the Issue Department as backing for the note issue. Fixed deposits with the Bank of International Settlements or with foreign commercial banks and bonds issued by international financial institutions, including the International Bank for Reconstruction and Development, are not presently treated as assets for being held in the Issue Department. It is proposed to remove this restriction and to treat all investments held abroad and maturing within a period of five years as eligible for being held either in the Banking Department or the Issue Department as may be convenient. It is also proposed to include a provision to the effect that any drawing rights representing the liability of the International Monetary Fund will be held as the assets of the Reserve Bank.

Clause 11 seeks to modify the definition of the term "liabilities" occurring in the *Explanation* below sub-section (1) of section 42 of the Act, in respect of which minimum cash balances are to be maintained by the scheduled banks with the Reserve Bank. In the case of a scheduled commercial bank, only the net liability of that bank to the entire banking system, that is after deduction of the balances maintained by it with all the other banks from its gross liabilities to all these other banks, will be deemed to be its liability to these banks for the purposes of section 42. In the case of a scheduled co-operative bank, the amounts owed by or to all commercial banks will be similarly netted for the purpose of ascertaining the net liability of that bank to the commercial banking sector.

It is also proposed, in the interests of uniformity and administrative convenience, to empower the Reserve Bank to delete, modify or supplement the particulars required to be furnished in the return to be submitted by every scheduled bank to the Reserve Bank as prescribed under section 42, having regard to the changing requirements from time to time.

Clause 12 seeks to substitute section 43 of the Act by a new section to enable the Reserve Bank to prepare and publish the consolidated statement on the basis of such information as may be furnished to it under section 42 or such other information as may be available to it and in such form as may be convenient or desirable from time to time.

Clause 13 seeks to amend clause (a) of section 45A of the Act for the purpose of treating the "corresponding new banks" as credit institutions without the necessity of notifying them for this purpose. The definition of the term "credit information" is also proposed to be amplified.

Clause 14 seeks to amend section 45E of the Act by inserting a new clause in sub-section (2) so as to afford a statutory protection to banks for exchange of credit information mutually among themselves.

Clauses 15 and 22 seek to omit sections 45G, 45O and 45P as penalties for offences are proposed to be specified in new sections 58B to 58F (*vide* clause 26).

Clause 16 seeks to amend section 45H of the Act to effectuate the change in the name of the company from Madras Industrial Investment Corporation Ltd. to Tamil Nadu Industrial Investment Corporation Ltd.

Clause 17 seeks to amend section 45I of the Act, to provide for a definition of the term 'deposit' and also to amplify the existing definition of the term 'financial institution' so as to make it comprehensive and precise.

Clause 18.—Consequential to the inclusion of the definition of the term "deposit" in section 45I of the Act, this clause seeks to omit sub-section (5) of section 45K.

Clause 19 seeks to insert new section 45MA in the Act to make it statutorily obligatory on the part of the auditor of a non-banking institution to inquire whether or not it has furnished to the Reserve Bank returns or other information required to be furnished under the directions issued by the Reserve Bank and in case a non-banking institution has failed to do so, to make a report to the Reserve Bank giving the aggregate amount of such deposits held by the non-banking institution.

Clause 20 seeks to amend section 45N of the Act so as to enable the Reserve Bank to inspect a non-banking financial institution whenever such an inspection is considered by it to be necessary or expedient.

Clause 21 seeks to insert new section 45NA in the Act to prohibit the circumvention by brokers of the existing provisions relating to the particulars to be specified in prospectuses or advertisements soliciting deposits from the public and to make it compulsory not only for companies but also for the brokers to disclose full particulars and information before canvassing for deposits.

Clause 23 seeks to amplify the scope of section 46A of the Act, so as to permit the Reserve Bank to finance the development of fisheries through loans from the National Agricultural Credit (Long Term Operations) Fund. The requirement of a guarantee of the State Government concerned in the case of all loans which are granted from this Fund is proposed to be modified so as to enable the Reserve Bank to waive such a guarantee if adequate security is otherwise available.

Clause 24 seeks to amend section 58 of the Act so as to make it clear that any regulation made by the Reserve Bank will have retrospective effect or will be effective from such date as may be specified in such regulation and to provide for the laying of the regulations before each House of Parliament.

Clause 25 seeks to insert new section 58A in the Act to indemnify the Central Government, the Reserve Bank and persons concerned in respect of any action which may be taken by them in good faith.

Clause 26 seeks to insert a new Chapter V in the Act to provide for penalties in respect of offences under the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 24 of the Bill seeks to amend section 58 of the Reserve Bank of India Act, 1934 to enable the making of regulations prospectively or retrospectively.

2. The existing provisions of section 58 of the Act empower the regulation-making authority to make regulations which can be given effect to only prospectively. Often, agreements are reached with the staff union of the Bank in regard to certain terms and conditions of service and there is an inevitable time-lag between the date of agreement and the date on which the relevant regulations are made or modified. In such cases, the regulations which are made subsequently cannot be given effect to from the date on which the agreement was reached. To overcome these difficulties, it is proposed to empower the regulation-making authority to make regulations with retrospective effect. The matters in relation to which regulations may be made are matters of detail which can hardly be provided in the Bill. The delegation of the legislative power is, therefore, of a normal character.

B. N. BANERJEE,
Secretary-General.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1974